HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

(Division Bench)

CORAM : **Hon'ble Shri S.R. NAYAK, CJ**
& Hon'ble Shri Satish K. Agnihotri, J.

MISC. APPEALNO.480 OF 2005

Appellants

(1) Ramcharan s/o Nohari
Aged 50 years, Occupation: Agriculture

(2) Nirasi Bai W/o Ramcharan
Aged about 45 years, Occupation Agriculture

(3) Sukhmania Wd/o Late Naharlal
Aged about 23 years,

(4) Gopal s/o late Naharlal
Aged about 2 years.
No.4 minor Through: Natural Guardian Mother Sukhmania Bai

All by caste Kumhar, R/o Village Devnagar (Kumharpara)
P.S. & Tahsil Surajpur
District: Surguja (CG).

VERSUS

Respondents

(1) Chunnulal S/o Jagatram
Caste Gond, Aged about 37 years,
Occupation: Service, Peon (Hostel Ramanujganj) R/o Tivaraguda,
P.S. Ramanujnagar, Tahsil: Surajpur
District: Surajpur (CG)

(2) The United India Insurance Co. Ltd.
Through Branch Manager,
Ram Mandir Road, Ambikapur
District Surguja (CG)

Present:

Mr. D.N. Prajapati, learned counsel for the appellants.

ORAL ORDER

(Passed on 28th of November 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

This appeal arises out of a death case. Learned counsel appearing for the appellants would contend that in assessing the loss of dependency the Tribunal is not justified in taking the annual income of the deceased at Rs.18,000/-. According to the learned counsel, the deceased was earning monthly income of Rs.4,000/- having worked as helper to Raj Mistri.

(2) We have carefully perused the impugned award. In para 12 of the award, it is pointed out by the Tribunal that though PW-1 in his examination in chief stated that the deceased was working with him and he was earning daily income of Rs.100/-, in his cross examination he admitted that the deceased was earning between Rs.30-40/- per day and that too for 20-25 days in a month. Nevertheless, the Tribunal in fairness has taken the annual income of the deceased at Rs.18,000/- for the purpose of assessing loss of dependency. Therefore, it cannot be said that what is awarded under the head of loss of dependency, in the facts and circumstances of the case and in the absence of any substantive legal evidence, is arbitrary or unreasonable. The appeal is devoid of merit. It is accordingly dismissed, however, with no costs.

Sd/-
Chief Justice
Judge

Sd/-
Satish K. Agnihotri
Judge

Brajesh*